

Appl. No. 10/659,554
Amdt. dated March 18, 2009
Notice of Appeal Entered February 2, 2009

REMARKS

The above application is on appeal. The Notice of Appeal was entered on February 2, 2009. An Appeal Brief has not yet been filed. Thus, 37 C.F.R. § 41.33 (a) applies.

Applicants' Attorney first discovered that the Specification, as filed, failed to include page 19 of the Application in reviewing the application for preparation of the Appeal Brief. Thus, this paper is being promptly filed following discovery of the inadvertent omission.

Applicants respectfully submit that entry of the above amendment does not constitute new matter and does not require any substantive work on the part of the Examiner for the following reasons.

Applicants note that the filing date for the above application is September 9, 2003 and that the application claims priority based on a parent application Serial No. 09/235,157 filed on January 22, 1999. The MPEP notes:

... Prior to October 21, 2004, Office policy also permitted incorporation by reference to a pending U.S. application**.

MPEP 608.01(p) A., 8th Ed., Rev. 7, p. 600-95 (July 2008).

MPEP 2163.07(b) states in part:

The information incorporated is as much a part of the application as filed as if the text was repeated in the application, and should be treated as part of the text of the application as filed. Replacing the identified material incorporated by reference with the actual text is not new matter.

MPEP §2163.07(b), 8th Ed., Rev. 7, pg. 2100-192,193 (Sept. 2007).

Applicants have demonstrated that the MPEP acknowledges that at the time of filing of this application incorporation by reference of pending U.S. Patent Applications was permitted and

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so including such matter does not constitute new matter because the matter was included in the application at the time of filing via the incorporation by reference. The MPEP expressly states this in the above quoted section.

The USPTO Patent Application Transmittal Form also expressly stated this fact. Attached as Exhibit A is a true copy of the Utility Patent Application Transmittal as filed in the instant application. Paragraph 18 of Exhibit A provides:

The entire disclosure of the prior application, from which the oath or declaration is supplied under Box 5b, is considered part of the disclosure of the accompanying or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts. (All emphasis in original.)

The omission of Page 19 of the parent application, Serial No. 09/235,217, in the filing of the above application was clearly inadvertent, because no amendment was presented cancelling Page 19 and the sentence at the top of page 20 is clearly incomplete. The page numbering of the application, as filed, shows that page 19 was inadvertently not included in the filing. A true copy of Page 19 from Parent Application Serial No. 09/235,157 is enclosed as Exhibit B. (See also U.S. Patent No. 6,633,984, Col. 7, lines 37 to 60.) The text in the above amendment to the Specification was taken from this page 19 and so was a part of the application as filed and so does not constitute new matter based on the above quoted MPEP sections.

In addition, Applicants note that pages 1 and 2 of the Application, as filed, incorporated by reference several U.S. Patent Applications having a filing date of January 22, 1999. For example, the specification, as amended, on page 1 states:

U.S. Patent Application Serial Number 09/235,158,
filed January 22, 1999, entitled "TECHNIQUES FOR
IMPLEMENTING SECURITY ON A SMALL FOOTPRINT DEVICE USING

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CONTEXT BARRIER", in the name of inventors Joshua Susser, Mitchel B. Butler, and Andy Streich, which issued as U.S. Patent No. 6,823,520 on November 23, 2004, and which application is incorporated herein by reference in its entirety;

Applicants note that such incorporation was proper in view of the above quotations from the MPEP. Enclosed as Exhibit C is a true copy of page 19, of U.S. Patent Application Serial Number 09/235,158, which was incorporated by reference on page 1 of the instant application. The above text is identical to this page 19 and so was a part of the application as filed and so the text added by this amendment does not constitute new matter for an additional reason.

Applicants have demonstrated that the text added by the above amendment was included in the current application, either through the incorporation by reference of the parent application on the Utility Patent Application Transmittal Form as filed, or alternatively via at least U.S. Patent Application Serial Number 09/235,158 with a filing date of January 22, 1999 that was incorporated by reference on Page 1 of the instant application. Thus, MPEP § 2163.07(b) directs that entry of that matter through this amendment does not constitute new matter. Specifically, the text added by this amendment is the same as that on Page 19 of Exhibits B and C and was included in the application at the time of filing.

As noted above, the missing text was first noted in preparation of the Appeal Brief and so is presented at this time. Entry of this paper is respectfully requested.

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Appl. No. 10/659,554
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If a petition is required for entry of this paper,
Applicants hereby petition for entry of the paper.

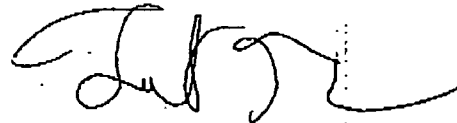
If the Examiner has any questions relating to the above, or
if the Examiner's action is other than entry of this paper, the
Examiner is respectfully requested to telephone the undersigned
Attorney for Applicant(s).

☒ The Commissioner is hereby authorized to charge any
fees required for consideration of this paper to Deposit Account
No. 50-0553.

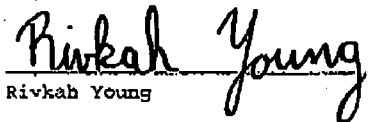
CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being
facsimile transmitted to the U.S. Patent and
Trademark Office, Fax No. 571-273-8300, on March
18, 2009.

Respectfully submitted,



Forrest Gunnison
Attorney for Applicant(s)
Reg. No. 32,899


Rivkah Young

March 18, 2009
Date of Signature

COPY

MAR 18 2009

PTO/SB/05 (05-09)

Approved for filing through 04/30/2009. OMB 0651-0032
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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UTILITY
PATENT APPLICATION
TRANSMITTAL

(Only for new nonprovisional applications under 37 C.F.R. 1.53(b))

Attorney Docket No. SUN-P3709CNT

First Inventor Sussner et al.

Title TECHNIQUES FOR PERMITTING ACCESS ACROSS A CONTEXT
BARRIER ON A SMALL FOOTPRINT DEVICE USING AN ENTRY
POINT OBJECT

Express Mail Label No. EV 269 600 854 US

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

ADDRESS TO:

Commissioner for Patents
Mail Stop Patent Application
P.O. Box 1460
Alexandria VA 22313-1450

1. ☒ Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original and a duplicate for fee processing)
2. ☐ Applicant claims small entity status.
See 37 CFR 1.27.
3. ☒ Specification (Total Pages 168)
(preferred arrangement set forth below)
- Descriptive title of the invention
- Cross Reference to Related Applications
- Statement Regarding Fed sponsored R & D
- Reference to sequence listing, a table,
or a computer program listing appendix
- Background of the invention
- Brief Summary of the invention
- Brief Description of the Drawings (if filed)
- Detailed Description
- Claim(s)
- Abstract of the Disclosure
4. ☒ Drawing(s) (35 U.S.C. 115) (Total Sheets 18)
5. Oath or Declaration (Total Sheets 2)
a. ☐ Newly executed (original or copy)
b. ☒ Copy from a prior application (37 CFR 1.63 (d))
(for a continuation/divisional with Box 16 completed)
6. ☐ DELETION OF INVENTOR(S)
Signed statement attached deleting inventor(s)
named in the prior application, see 37 CFR
1.63(d)(2) and 1.33(b).
6. ☐ Application Data Sheet. See 37 CFR 1.76

7. ☐ CD-ROM or CD-R in duplicate, large table or
Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission
(if applicable, all necessary)
a. ☐ Computer Readable Form (CRF)
b. Specification Sequence Listing on:
i. ☐ CD-ROM or CD-R (2 copies); or
ii. ☐ paper
c. ☐ Statements verifying identity of above copies

ACCOMPANYING APPLICATIONS PARTS

9. ☒ Assignment Papers (cover sheet & document(s))
10. ☐ 37 C.F.R. 3.73(b) Statement of Power of Attorney (when there is an assignee)
11. ☐ English Translation Document (if applicable)
12. ☒ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS
Challans
13. ☒ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s)
(if foreign priority is claimed)
16. ☐ Nonpublication Request under 35 U.S.C. 122
(b)(2)(B)(i). Applicant must attach form PTO/SB/35
or its equivalent.
17. ☐ Other:

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment,
or in an Application Data Sheet under 37 CFR 1.76:☒ Continuation ☐ Divisional ☐ Continuation-in-part (CIP)of prior application No. 08 / 235,157

Prior application information:

Examiner Majid A. BanankhahArt Unit: 2127For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied
under Box 5b, is considered a part of the disclosure of the accompanying or divisional application and is hereby incorporated by reference.
The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.


19. CORRESPONDENCE ADDRESS

☐ Customer Number or Bar Code Label

(Insert Customer No. or Attach bar code label here)

or ☒ Correspondence address below

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Name (Print/Type)	John P. Schaub	Registration No. (Attorney/Agent)	42,125
Signature		Date	9/9/03

This collection of information is required by 37 CFR 1.63(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

EXHIBIT B

19

The capabilities of a standard virtual machine can be expanded to provide the additional functionality described herein or the functionality can be provided as separate modules. The virtual machine 720 may include an interpreter or native implementation 730 which provides access to a run time system 740. The run time system includes object system 750 for managing the objects of an object oriented implementation. Three contexts, 760, 770 and 780, are shown. Each context is separated from the other by a context barrier (sometimes referred to as a firewall) between the execution contexts. Context 760 is, in one specific embodiment, a supercontext. That is, context 760 has privileges and capabilities not available to subordinate contexts 770 and 780, potentially including privileges to create entry point objects or global data structures, and to access objects in subordinate contexts 770 and 780.

Every object is associated with one particular context. That context is said to own each object that is associated with it. The runtime system 740 provides a means for uniquely identifying contexts, and a means for specifying and identifying the currently executing context. The object system 750 provides a mechanism for associating objects with their owning contexts.

For example, the runtime 740 can identify contexts with a unique name, and correspondingly the object system

January 22, 1999

50253-217; P3709

COPY

EXHIBIT C

19

The capabilities of a standard virtual machine can be expanded to provide the additional functionality described herein or the functionality can be provided as separate modules. The virtual machine 720 may include an interpreter or native implementation 730 which provides access to a run time system 740. The run time system includes object system 750 for managing the objects of an object oriented implementation. Three contexts, 760, 770 and 780, are shown. Each context is separated from the other by a context barrier (sometimes referred to as a firewall) between the execution contexts. Context 760 is, in one specific embodiment, a supercontext. That is, context 760 has privileges and capabilities not available to subordinate contexts 770 and 780, potentially including privileges to create entry point objects or global data structures, and to access objects in subordinate contexts 770 and 780.

Every object is associated with one particular context. That context is said to own each object that is associated with it. The runtime system 740 provides a means for uniquely identifying contexts, and a means for specifying and identifying the currently executing context. The object system 750 provides a mechanism for associating objects with their owning contexts.

For example, the runtime 740 can identify contexts with a unique name, and correspondingly the object system

January 21, 1999

50253-216; P3708

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